



APPENDIX

Pertinent provisions of the Emergency Price Control Act of 1942, as amended (56 Stat. 23, 765; 58 Stat. 632; 59 Stat. 306; 50 U. S. C. App., Supp. IV, 902, 923, 924), are as follows:

SEC. 2. (a) Whenever in the judgment of the Price Administrator (provided for in section 201) the price or prices of a commodity or commodities have risen or threaten to rise to an extent or in a manner inconsistent with the purposes of this Act, he may by regulation or order establish such maximum price or maximum prices as in his judgment will be generally fair and equitable and will effectuate the purposes of this Act. So far as practicable, in establishing any maximum price, the Administrator shall ascertain and give due consideration to the prices prevailing between October 1 and October 15, 1941 (or if, in the case of any commodity, there are no prevailing prices between such dates, or the prevailing prices between such dates are not generally representative because of abnormal or seasonal market conditions or other cause, then to the prices prevailing during the nearest two-week period in which, in the judgment of the Administrator, the prices for such commodity are generally representative), for the commodity or commodities included under such regulation or order, and shall make adjustments for such relevant factors as he may determine and deem to be of general applicability, including the following: Speculative

fluctuations, general increases or decreases in costs of production, distribution, and transportation, and general increases or decreases in profits earned by sellers of the commodity or commodities, during and subsequent to the year ended October 1, 1941: *Provided*, That no such regulation or order shall contain any provision requiring the determination of costs otherwise than in accordance with established accounting methods. Every regulation or order issued under the foregoing provisions of this subsection shall be accompanied by a statement of the considerations involved in the issuance of such regulation or order. As used in the foregoing provisions of this subsection, the term "regulation or order" means a regulation or order of general applicability and effect. Before issuing any regulation or order under the foregoing provisions of this subsection, the Administrator shall, so far as practicable, advise and consult with representative members of the industry which will be affected by such regulation or order, and shall give consideration to their recommendations. In the case of any commodity for which a maximum price has been established, the Administrator shall, at the request of any substantial portion of the industry subject to such maximum price, regulation, or order of the Administrator, appoint an industry advisory committee, or committees, either national or regional or both, consisting of such number of representatives of the industry as may be necessary in order to constitute a committee truly representative of the industry, or of the industry in such region, as the case may be. The committee shall select a chairman from among its members, and shall meet at the call of the

chairman. The Administrator shall from time to time, at the request of the committee, advise and consult with the committee with respect to the regulation or order, and with respect to the form thereof, and classifications, differentiations, and adjustments therein. The committee may make such recommendations to the Administrator as it deems advisable, and such recommendations shall be considered by the Administrator. Whenever in the judgment of the Administrator such action is necessary or proper in order to effectuate the purposes of this Act, he may, without regard to the foregoing provisions of this subsection, issue temporary regulations or orders establishing as a maximum price or maximum prices the price or prices prevailing with respect to any commodity or commodities within five days prior to the date of issuance of such temporary regulations or orders; but any such temporary regulation or order shall be effective for not more than sixty days, and may be replaced by a regulation or order issued under the foregoing provisions of this subsection.

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(c) Any regulation or order under this section may be established in such form and manner, may contain such classifications and differentiations, and may provide for such adjustments and reasonable exceptions, as in the judgment of the Administrator are necessary or proper in order to effectuate the purposes of this Act. Under regulations to be prescribed by the Administrator, he shall provide for the making of individual adjustments in those classes of cases where the rent on the maximum rent date for any housing accommodations

is, due to peculiar circumstances, substantially higher or lower than the rents generally prevailing in the defense-rental area for comparable housing accommodations, and in those classes of cases where substantial hardship has resulted since the maximum rent date from a substantial and unavoidable increase in property taxes or operating costs. Any regulation or order under this section which establishes a maximum price or maximum rent may provide for a maximum price or maximum rent below the price or prices prevailing for the commodity or commodities, or below the rent or rents prevailing for the defense-area housing accommodations, at the time of the issuance of such regulation or order.

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SEC. 203. (a) At any time after the issuance of any regulation or order under section 2, or in the case of a price schedule, at any time after the effective date thereof specified in section 206, any person subject to any provision of such regulation, order, or price schedule may, in accordance with regulations to be prescribed by the Administrator, file a protest specifically setting forth objections to any such provision and affidavits or other written evidence in support of such objections. Statements in support of any such regulation, order, or price schedule may be received and incorporated in the transcript of the proceedings at such times and in accordance with such regulations as may be prescribed by the Administrator. Within a reasonable time after the filing of any protest under this subsection, but in no event more than thirty days after such filing, the Administrator shall either grant or deny such protest in

whole or in part, notice such protest for hearing, or provide an opportunity to present further evidence in connection therewith. In the event that the Administrator denies any such protest in whole or in part, he shall inform the protestant of the grounds upon which such decision is based, and of any economic data and other facts of which the Administrator has taken official notice.

(b) In the Administration of this Act the Administrator may take official notice of economic data and other facts, including facts found by him as a result of action taken under section 202.

(c) Any proceedings under this section may be limited by the Administrator to the filing of affidavits, or other written evidence, and the filing of briefs: *Provided, however,* That, upon the request of the protestant, any protest filed in accordance with subsection (a) of this section after September 1, 1944, shall, before denial in whole or in part, be considered by a board of review consisting of one or more officers or employees of the Office of Price Administration designated by the Administrator in accordance with regulations to be promulgated by him. Such regulations shall provide that the board of review may conduct hearings and hold sessions in the District of Columbia or any other place, as a board, or by subcommittees thereof, and shall provide that, upon the request of the protestants and upon a showing that material facts would be adduced thereby, subpoenas shall issue to procure the evidence of persons, or the production of documents, or both. The Administrator shall cause to be presented to the board such evidence, including economic data, in the form of

affidavits or otherwise, as he deems appropriate in support of the provision against which the protest is filed. The protestant shall be accorded an opportunity to present rebuttal evidence in writing and oral argument before the board and the board shall make written recommendations to the Price Administrator. The protestant shall be informed of the recommendations of the board and, in the event that the Administrator rejects such recommendations in whole or in part, shall be informed of the reasons for such rejection.

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SEC. 204. (a) Any person who is aggrieved by the denial or partial denial of his protest may, within thirty days after such denial, file a complaint with the Emergency Court of Appeals, created pursuant to subsection (c), specifying his objections and praying that the regulation, order, or price schedule protested be enjoined or set aside in whole or in part. A copy of such complaint shall forthwith be served on the Administrator, who shall certify and file with such court a transcript of such portions of the proceedings in connection with the protest as are material under the complaint. Such transcript shall include a statement setting forth, so far as practicable, the economic data and other facts of which the Administrator has taken official notice. Upon the filing of such complaint the court shall have exclusive jurisdiction to set aside such regulation, order, or price schedule, in whole or in part, to dismiss the complaint, or to remand the proceeding: *Provided*, That the regulation, order, or price schedule may be modified or rescinded by the Administrator at any time notwith-

standing the pendency of such complaint. No objection to such regulation, order, or price schedule, and no evidence in support of any objection thereto, shall be considered by the court, unless such objection shall have been set forth by the complainant in the protest or such evidence shall be contained in the transcript. If application is made to the court by either party for leave to introduce additional evidence which was either offered to the Administrator and not admitted, or which could not reasonably have been offered to the Administrator or included by the Administrator in such proceedings, and the court determines that such evidence should be admitted, the court shall order the evidence to be presented to the Administrator. The Administrator shall promptly receive the same, and such other evidence as he deems necessary or proper, and thereupon he shall certify and file with the court a transcript thereof and any modification made in the regulation, order, or price schedule as a result thereof; except that on request by the Administrator, any such evidence shall be presented directly to the court.

(b) No such regulation, order, or price schedule shall be enjoined or set aside, in whole or in part, unless the complainant establishes to the satisfaction of the court that the regulation, order, or price schedule is not in accordance with law, or is arbitrary or capricious. The effectiveness of a judgment of the court enjoining or setting aside, in whole or in part, any such regulation, order, or price schedule shall be postponed until the expiration of thirty days from the entry thereof, except that if a petition for a writ of certiorari is filed with the Supreme Court under subsection (d)

within such thirty days, the effectiveness of such judgment shall be postponed until an order of the Supreme Court denying such petition becomes final, or until other final disposition of the case by the Supreme Court.

(c) There is hereby created a court of the United States to be known as the Emergency Court of Appeals, which shall consist of three or more judges to be designated by the Chief Justice of the United States from judges of the United States district courts and circuit courts of appeals. The Chief Justice of the United States shall designate one of such judges as chief judge of the Emergency Court of Appeals, and may, from time to time, designate additional judges for such court and revoke previous designations. The chief judge may, from time to time, divide the court into divisions of three or more members, and any such division may render judgments as the judgment of the court. Two judges shall constitute a quorum of the court and of each division thereof. The court shall have the powers of a district court with respect to the jurisdiction conferred on it by this Act; except that the court shall not have power to issue any temporary restraining order or interlocutory decree staying or restraining, in whole or in part, the effectiveness of any regulation or order issued under section 2 or any price schedule effective in accordance with the provisions of section 206. The court shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases of which it has jurisdiction under this Act. The court may fix and establish a table of costs and fees to be approved by

the Supreme Court of the United States, but the costs and fees so fixed shall not exceed with respect to any item the costs and fees charged in the Supreme Court of the United States. The court shall have a seal, hold sessions at such places as it may specify, and appoint a clerk and such other employees as it deems necessary or proper.

(d) Within thirty days after entry of a judgment or order, interlocutory or final, by the Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a circuit court of appeals as provided in section 240 of the Judicial Code, as amended (U. S. C., 1934 edition, title 28, sec. 347). The Supreme Court shall advance on the docket and expedite the disposition of all causes filed therein pursuant to this subsection. The Emergency Court of Appeals, and the Supreme Court upon review of judgments and orders of the Emergency Court of Appeals, shall have exclusive jurisdiction to determine the validity of any regulation or order issued under section 2, of any price schedule effective in accordance with the provisions of section 206, and of any provision of any such regulation, order, or price schedule. Except as provided in this section, no court, Federal, State, or Territorial, shall have jurisdiction or power to consider the validity of any such regulation, order, or price schedule, or to stay, restrain, enjoin, or set aside, in whole or in part, any provision of this Act authorizing the issuance of such regulations or orders, or making effective any such price schedule, or any

provision of any such regulation, order, or price schedule, or to restrain or enjoin the enforcement of any such provision.

Pertinent provisions of Maximum Price Regulation 422, as amended (10 F. R. 1505, 2024, 6514):

SECTION 1. *What this regulation does.* This regulation fixes new ceiling prices for the "dry groceries" listed in Table A and the "perishables" listed in Table B for all retail stores, other than "independent" retail stores, doing an annual business of less than \$250,000, and for all retail stores, whether "independent" or not, doing an annual business of more than \$250,000. These new ceiling prices are to be used instead of the ceiling prices figured under any other price regulation or order issued by the Office of Price Administration (hereinafter called OPA) except as otherwise provided in any order fixing dollars-and-cents ceiling prices which has been or which may be issued by the OPA pursuant to General Order No. 51. All other retail stores (Group 1 and Group 2 stores) selling these food products are covered by Maximum Price Regulation No. 423.

SEC. 2. *How you find out whether your store is covered by this regulation and what group it is in—*(a) *What stores are covered.* Your store is covered by this regulation if it is a Group 3 or 4 store as defined below and if you are a retailer who buys and resells food products, generally without materially changing their form, for the most part to ultimate consumers who are not commercial industrial or institutional users. The provisions of this regulation apply to "retail route sellers" only with respect to fresh fruits and vegetables. However, this

regulation does not apply to "health food stores," or to automatic vending machines or farmers selling produce grown on their own farms.

(b) *What are Group 3 and 4 stores.* For the purpose of this regulation, Group 3 and 4 stores are defined as follows:

(1) *Group 3.* Your store is in Group 3 if its "annual gross sales" are less than \$250,000, and if it is not an "independent" store. Your store is an "independent" store if it is not one of 4 or more stores under one ownership whose combined "annual gross sales" are \$500,000 or more.

(2) *Group 4.* Your store is in Group 4 if its "annual gross sales" are \$250,000 or more.

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Perishables

SEC. 7. *How and when you figure your ceiling prices for "perishables"*—(a) *General rule.* Your ceiling price for each item (that is, for each kind, brand, variety, and grade) of "perishables" listed in Table B shall be the total of (1) the "net cost" of the largest delivery of the item to you during the week before, plus (2) the mark-up given you for it in Table B.

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SEC. 8. *Directions for applying the rule for "perishables"*—(a) *Net cost.* To figure your ceiling price, first find the "net cost" of the largest delivery to you of the item during the seven day period before the Thursday for which you are figuring your price. If you have received more than one delivery of the same largest quantity, use the most recent of these deliveries. Your net cost will be the amount you paid your supplier less all discounts except the dis-

count for prompt payment, plus all transportation charges you paid, which may include costs for icing refrigeration, and ventilation, but which may not include costs for local trucking and local unloading.

SEC. 20. *How you figure your "net cost" in certain cases—*

(f) *White potatoes purchased by you ungraded and unsacked.* If you purchase ungraded and unsacked white potatoes at a country shipping point (as defined in Revised Maximum Price Regulation 271) and you grade and sack such potatoes, you shall figure a separate ceiling price weekly for each grade and variety, using as your "net cost" per "selling unit" the lowest ceiling price per 100 pounds fixed by Revised Maximum Price Regulation 271 for sales by a country shipper f. o. b. country shipping point of such grade and variety, adjusted by the applicable packaging differential, during the month in which you receive delivery at your usual receiving point, plus all transportation charges you paid (except local trucking and local unloading) to your usual receiving point, divided by 100, and multiplied by 5.

(g) *Dry onions purchased by you ungraded and unsacked.* If you purchase ungraded and unsacked dry onions at a country shipping point (as defined in Revised Maximum Price Regulation 271) and you grade and sack such onions, you shall figure a separate ceiling price weekly for each grade and variety, using as your "net cost" per "selling unit" the lowest ceiling price per 50 pounds fixed by Maximum Price Regulation 271 for sales by a country shipper f. o. b. country shipping point of

such grade and variety, adjusted by the applicable packaging differentials, during the month in which you receive delivery at your usual receiving point, plus all transportation charges you paid (except local trucking and local unloading) to your usual receiving point, divided by 50 and multiplied by 3.

(h) *Citrus fruits purchased by you ungraded, unsized and unpacked.* If you purchase ungraded, unsized and unpacked citrus fruits and you grade, size and pack such citrus fruits, you shall figure on such purchases a separate ceiling price weekly for each variety, and size, and fruit from different areas, using as the basis of your "net cost" for each variety, and size, and fruit from different areas, the lowest ceiling price fixed in Maximum Price Regulation No. 292 for sales by a packer of such variety, size, and fruit in the type of container in which each item is packed, in effect at the time when you receive delivery at your usual receiving point, plus all transportation charges you paid (except local trucking and local unloading) to your usual receiving point. To get your ceiling price, reduce the resulting figure to the "net cost" of the "selling unit", and apply the markup for your group of retailer as set forth in section 8.

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(p) *Fresh fruits or vegetables bought in carlot or trucklot quantities.* If you purchase any item of fresh fruits or vegetables listed in Table B, in "carlot" or "trucklot" quantities, from a "grower", "country shipper", "primary seller" or "grower-packer" (as those terms are defined in the applicable maximum price regulation covering the sale of the item except at retail),

figure your ceiling price for that item in the following way: Start with the amount paid for the quantity of the item delivered, less all discounts except the discount for prompt payment. Add to that figure all transportation charges you paid to your usual receiving point, which may include costs for icing, refrigeration, and ventilation, but not costs for local trucking or local unloading. (If you perform, in connection with any item, any of the functions described in paragraphs (f), (g), (h), (q) or (r) of this section, start with the figure computed for that item under the applicable paragraph.) Increase that figure by 1½ percent. Reduce the resulting figure to the "net cost" per "selling unit" and apply the mark-ups for your group of retailer as set forth in section 8.

SEC. 39. *Table of mark-ups for "perishables" (Table B)—(a)*
Table B: Mark-ups over "net cost" allowed to Group 3 and
Group 4 retailers for "perishables" covered by this regula-
tion by commodities

TABLE B—MARK-UPS OVER "NET COSTS" ALLOWED TO GROUP 3 AND GROUP 4 RETAILERS FOR PERISHABLES COVERED BY THIS REGULATION BY COMMODITIES

I. Food commodities	Allowed mark-ups over net cost		"Selling unit" in which ceiling price must be calculated
	Group 3. Retailer other than independent with annual volume under \$250,000	Group 4. Any retailer with annual volume of \$250,000 or more	
	Percent	Percent	
(1) Dairy products:			
Butter.....	8	8	1 pound.
Cheese.....	24	22	1 pound or 1 pack. ^{app.}
Eggs, shell.....	14	12	1 dozen.
(2) Fresh fruits:			
Apples.....	33	33	2 pounds.
Bananas, bought on the stem.....	34	34	1 pound.
Bananas, bought in hands.....	25	25	1 pound.
Berries.....	34	34	1 quart, 1 pint or 1 pound.
Citrus fruits.....	36	36	1 dozen or 8 pounds. ^{nds.} (Grapefruit, 1 package- fruit or 1 pound ^d).
Red sour cherries.....	34	34	1 quart or 1 pound. ^{nd.}

I. Food commodities	Allowed mark-ups over net cost		"Selling unit" in which ceiling price must be calculated
	Group 3. Retailer other than independent with annual vol- ume under \$250,000	Group 4. Any retailer with annual volume of \$250,000 or more	
(3) Fresh vegetables:			
Lettuce.....	40	40	1 head or 1 pound.
Onions, dry.....	40	35	3 pounds.
Potatoes, sweet.....	40	40	2 pounds.
Potatoes, white.....	30	28	5 pounds.
Tomatoes.....	40	40	1 pound or 1 package.
Vegetables in unbroken pack- ages.	40	40	1 package.
(4) Poultry:			
Poultry (except turkey) sold as purchased: Bought live and sold live, bought dress- ed and sold dressed, bought drawn and sold drawn, bought frozen and sold frozen, bought kosher-killed and sold kosher-killed, bought kosher dressed and plucked and sold kosher dressed and plucked, bought split or cut-up and sold split or cut-up (boxed and other pack).	20	20	1 pound.
Poultry (including turkey) bought live and sold dressed weight basis. (Multiply live cost per pound by ap- plicable figure in table. This establishes selling price per pound, dressed weight.)	36	36	1 pound.
Turkey bought live and sold live.	20	20	1 pound.
Turkey bought dressed and sold dressed, bought kosher- killed and sold kosher- killed, bought kosher dress- ed and plucked and sold kosher dressed and plucked, bought drawn and sold drawn, bought frozen and sold frozen, bought split and sold split, bought cut- up and sold cut-up (boxed and other pack).	17	15	1 pound.

II. Food commodities	Allowed dollars-and-cents mark-ups per "selling unit"		"Selling unit" in which ceiling price must be calculated
	Group 3. Retailer other than independent with annual volume under \$250,000	Group 4. Any retailer with annual volume of \$250,000 or more	
(1) Dairy products:			
(2) Fresh fruits:	<i>Cents</i>	<i>Cents</i>	
Apricots.....	4½	4½	1 pound.
Cherries, sweet.....	9	9	1 pound.
Coconuts.....	1½	1½	1 pound.
Cranberries.....	10	10	1 pound.
Melons, except watermelons..	2½	2½	1 pound.
Peaches.....	3½	3½	1 pound.
Pears.....	4	4	1 pound.
Plums.....	4½	4½	1 pound.
Prunes, Italian.....	3	3	1 pound.
Watermelons.....	1	1	1 pound.
(3) Fresh vegetables:			
Beans, green and wax.....	4	4	1 pound.
Carrots, bunched.....	2½	2½	1 bunch.
Carrots, other than bunched..	2	2	1 pound.
Cucumbers, except hothouse cucumbers.	2½	2½	1 pound.
Cucumbers, hothouse.....	6½	6½	1 pound.
Eggplant.....	3	3	1 pound.
Peas, green.....	3	3	1 pound.
Peppers, sweet.....	4½	4½	1 pound.
Spinach.....	3	3	1 pound.
(4) Poultry:			

